

**FILED**  
U.S. DISTRICT COURT  
EASTERN DISTRICT ARKANSAS

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
WESTERN DIVISION

MAY 05 2005

JAMES W. McCORMACK, CLERK  
By: \_\_\_\_\_  
DEP CLERK

HAROLD KELLY

PLAINTIFF

NO. 4-05 070000690 JLH

V.

HON. VIC FLEMING, IN HIS OFFICIAL CAPACITY DEFENDANTS  
RUSTY ROTHWELL, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY  
AARON SIMONS, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY  
LITTLE ROCK POLICE DEPARTMENT  
CITY OF LITTLE ROCK

The  
and to be filed in the

COMPLAINT

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. Section 1343. This is an action to secure redress of rights secured by the Constitution and Law of the United States, in particular, those protected by 42 U.S.C. 1983, the First, Fourth, Fifth and Fourteenth Amendments. This is also an action for damages and other relief as set out below for libel, slander, unlawful seizure and detention, intentional infliction of emotional distress and other tort law concepts, including common law concepts. Plaintiff further invoked the pendent jurisdiction of this court to hear and decide claims arising under State law.

2. Plaintiff Harold Kelly is a male citizen of the United States who resides in Pulaski County.

3. Defendants Rothwell and Aaron were at all material times employed by the City of Little Rock as police officers. Defendant Vic Fleming functioned as a district/municipal court judge.

4. Defendant City of Little Rock employed defendants. Defendant City is a municipality duly incorporated under the laws of the State of Arkansas.

5. On or about October 16, 2003 plaintiff was using a pay phone and was approached by defendant police officers. They, inter alia, unlawfully seized and detained plaintiff inter alia, and placed him in a locked police cruiser prior to jailing plaintiff. Plaintiff was on private-property when he was approached by defendants.

6. Defendants seized plaintiff and his vehicle based, by their account, on a Court order issued by defendant Fleming. Said order, is stated to call for the seizure of vehicle when the vehicle is operated in a public road without liability insurance. Plaintiff was not on a public road at time of the defendants seized him.

7. The referenced order, conduct, and acts violates plaintiff's rights under the First, Fourth, Fifth and Fourteenth Amendments to the U.S. Constitution, and is also in violation of case and other applicable law.

8. Plaintiff suffered a loss of the vehicle, and other

property due to the illegal conduct of the defendants.

Also, plaintiff had to pay other costs and fees based upon the illegal conduct of the defendants.

9. All acts of the defendants were performed under the color of authority based upon their capacities, conduct, and intentions. The conduct of the defendants complained of herein was the direct and proximate cause of plaintiff's harm.

10. Plaintiff requests a jury trial of this matter.

WHEREFORE, all premises considered, plaintiff prays relief as follows:

A. Preliminary and permanent injunction preventing the defendants, their agents, successors, employees and those acting in concert with defendants under or at their direction from engaging in such intentional, discriminatory-illegal and unconstitutional policies and practices as complained or herein.

B. A declaratory judgment that the actions of the defendants complained of herein violated plaintiff's rights guaranteed by Section 1983 and other constitutional provisions.

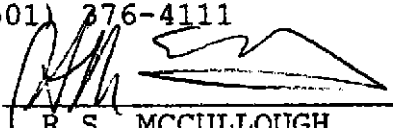
C. Compensatory and punitive damages against each and all defendants jointly and severally in the amount of \$500,000.

D. Costs of this action, including an award of reasonable attorney fees and all other costs and relief to which he is entitled.

Respectfully Submitted,

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BY:



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R.S. MCCULLOUGH  
(ARK. Bar #85-102)